

APR 11.6
REPORTS AND ENFORCEMENT

(a) Reporting and Other Activities.

(1) Sponsor Reports. The sponsor of each approved program (or each program for which approval is sought) must make available attendance reports to be completed by those lawyers in attendance to show the actual time spent by each lawyer in attendance. The form of the reports will be determined by the MCLE Board. The sponsor must send a report, consisting of a compilation of the information contained in these forms, to the Bar Association not later than 30 days after conclusion of the program.

(2) Other Activities. Consistent with the provisions of Appendix APR 11 Regulations, in the case of some programs for which approval has not been sought or obtained by the sponsor, or for other activities which may qualify for CLE credit under these rules, individual lawyers may apply for credit by direct application to the MCLE Board, using the form or forms specified by the MCLE Board for that purpose.

(3) Member Credit Status Reports.

(A) Not later than July 1 of each year, the Bar Association shall advise each active member and other lawyers required to report in the current reporting cycle of the number of earned credit hours reflected in that lawyer's records with the Bar Association.

(i) If the lawyers do not request changes to their records within forty-five days of the mailing of the report, the reported credits will be deemed correct.

(ii) After 45 days, the records may be changed upon a showing of good cause.

(B) By not later than December 15 of each year, a similar report shall be provided to all active members and other lawyers required to report continuing education credits.

(b) Compliance Certification. Each active member or other lawyer required to complete and report continuing legal education requirements must submit an MCLE compliance certification form by February 1 following the end of the lawyer's three-year reporting period or as approved by the MCLE Board pursuant to rule 11.4. If a lawyer has not completed the minimum education requirement for that lawyer's reporting period, the lawyer may complete and return to the MCLE Board a petition, which shall be accompanied by a declaration(s) or affidavit(s) in support of the request, for an extension of time to complete the requirements. If the petition is approved, the lawyer shall make up the deficiency, file a supplemental report with the Bar Association, and pay a late filing fee by the date set forth in the agreement or order extending the time for compliance.

(c) Delinquency. Any lawyer required to do so who has not complied by the certification deadline, or by the date set forth in an agreement or order extending the time for compliance, may be ordered suspended from the practice of law by the Supreme Court.

(1) Pendency Notice. The MCLE Board shall send a written notice of the pendency of suspension proceedings by certified mail to any lawyer who has not complied with either the educational or certification requirements of APR 11 and the Appendix APR 11 Regulations by the certification deadline for that lawyer's reporting period or extended deadline granted by the MCLE Board. It will be sent to the lawyer's address of record with the Bar Association. The notice shall advise the member of the pendency of suspension proceedings and state that the MCLE Board will recommend suspension of the lawyer's license to practice law unless the lawyer becomes compliant or completes and returns to the MCLE Board a petition for extension of time, exemption from compliance, or ruling of complete compliance as set forth below. The MCLE Board shall include with the pendency notice a copy of the form of petition to be used.

(2) Petition for extension, waiver, modification or finding of compliance.

(A) Timing. Within 10 days of receipt of the pendency notice, a lawyer may complete and return to the MCLE Board a petition requesting an extension of time, a waiver of compliance, modifications to the requirements, or ruling by the MCLE Board of compliance with the standard requirements.

(B) Supporting documents. The petition may be accompanied by supporting affidavit(s) or declaration(s).

(3) No timely petition filed; suspension recommendation. Unless such petition is filed, the noncompliance is deemed agreed. The MCLE Board shall report the lawyer's noncompliance to the Supreme Court with its recommendations for appropriate action. The Supreme Court shall enter such order, as it deems appropriate. The provisions of RAP 17.4 and RAP 17.5 shall apply to any motion for reconsideration of such order.

(4) Petition Filed. If such petition is filed, in its consideration of the petition, the MCLE Board shall consider factors of undue hardship, age, or disability. One of the following shall result from consideration of a petition:

(A) Approval without hearing. The MCLE Board may, in its discretion, approve the petition without hearing, or

(B) Agreement with lawyer. The MCLE Board may enter into agreement on terms with such lawyer as to time and requirements for achieving compliance with the provisions of APR 11.2(a) and APR 11.6(b) or

(C) Hearing on petition. If the MCLE Board does not approve such petition or enter into an agreement with terms, the MCLE Board (or a subcommittee of one or more MCLE Board members) shall hold a hearing upon the petition.

(i) The Board shall give the lawyer at least 10 days notice of the time and place thereof.

(ii) Testimony taken at the hearing shall be under oath, and an audio or stenographic record will be made at the request and expense of the lawyer. The oath shall be administered by the chairperson of the MCLE Board or the chairperson of the subcommittee.

(iii) For good cause shown the MCLE Board may rule that the lawyer has substantially complied with these rules for the reporting period in question or, if he or she has not done so, it may grant the lawyer an extension of time within which to comply upon terms deems appropriate.

(iv) For each hearing, the MCLE Board shall enter written findings of fact and an appropriate order. The MCLE Board shall mail a copy of the findings and order forthwith to the lawyer at the address on file with the Bar Association.

(v) The MCLE Board's order is final unless within 10 days from the date thereof the lawyer files a written notice of appeal with the Supreme Court and serves a copy of on the Washington State Bar Association. The lawyer shall pay to the Clerk of the Supreme Court a docket fee of \$250.00.

(d) Review by the Supreme Court. Within 15 days of filing a notice with the Supreme Court for review of the MCLE Board's findings and order, after a non-compliance petition hearing, the lawyer shall cause the record or a narrative report in compliance with RAP 9.3 to be transcribed and filed with the Bar Association.

(1) The MCLE Board chairperson or chairperson of the subcommittee shall certify that any such record or narrative report of proceedings contains a fair and accurate report of the occurrences in and evidence introduced in the cause.

(2) The MCLE Board shall prepare a transcript of all orders, findings, and other documents pertinent to the proceeding, before the MCLE Board, which must be certified by the MCLE Board chairperson or chairperson of the subcommittee.

(3) The MCLE Board shall then file promptly with the Clerk of the Supreme Court the record or narrative report of proceedings and the transcripts pertinent to the proceedings before the MCLE Board.

(4) The matter shall be heard in the Supreme Court pursuant to procedures established by order of the Court.

(e) Time. The times set forth in this rule for filing notices of appeal are jurisdictional. The Supreme Court, as to appeals pending before it, may, for good cause shown:

(1) Extend the time for the filing or certification of said record or narrative report of proceedings and transcripts; or

(2) Dismiss the appeal for failure to prosecute the same diligently.

(f) Costs. If the lawyer prevails in his or her appeal before the Supreme Court, the lawyer shall be awarded costs against the Bar Association in an amount equal to his or her reasonable expenditures for the preparation of the record or narrative report of proceedings.

(g) Change of Status. Once a lawyer has been ordered suspended from practice for noncompliance with these rules, the lawyer affected must comply with the then applicable regulations of the MCLE Board and the WSBA Bylaws in order to return to active status.

[Amended effective May 14, 1982; September 1, 1992; January 1, 2001; January 1, 2009.]
